

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No.
)	08-00225-01-CR-W-ODS
DUSTIN RAY SHERWOOD,)	
)	
Defendant.)	

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on December 19, 2008. Defendant Sherwood appeared in person and with retained counsel Bruce Sloan and William Bracker. The United States of America appeared by Assistant United States Attorneys Jane Brown and Lucinda Woolery.

I. BACKGROUND

On December 3, 2008, a superseding indictment was returned charging Defendant with: one count of obstruction of justice, in violation of 18 U.S.C. § 1503; two counts of bank fraud, in violation of 18 U.S.C. § 1344; and five counts of false statements to the Commodity Credit Corporation and conversion, in violation of 15 U.S.C. § 714m.

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Ms. Brown announced that she and Ms. Woolery will be the trial counsel for the government. The case agent to be seated at counsel table is Dan Mason, USDA.

Mr. Bracker announced that he and Mr. Sloan will be the trial counsel for Defendant Sherwood.

III. OUTSTANDING MOTIONS

There are no pending motions in this case.

IV. TRIAL WITNESSES

Ms. Brown announced that the government intends to call sixteen witnesses without stipulations or twelve to thirteen witnesses with stipulations during the trial.

Mr. Bracker announced that Defendant Sherwood intends to call eight witnesses during the trial. Defendant may testify.

V. TRIAL EXHIBITS

Ms. Brown announced that the government will offer approximately eighty to ninety exhibits in evidence during the trial.

Mr. Bracker announced that Defendant Sherwood will offer approximately ten exhibits in evidence during the trial.

VI. DEFENSES

Mr. Bracker announced that Defendant Sherwood will rely on the defense of general denial.

VII. POSSIBLE DISPOSITION

Mr. Bracker stated this case is definitely for trial.

VIII. STIPULATIONS

Stipulations are likely as to business records.

IX. TRIAL TIME

Counsel were in agreement that this case will take four and a half to five days to try.

X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed September 23, 2008, counsel for each party file and serve a list of exhibits he or she intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by Friday, December 19, 2008;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Monday, December 29, 2008;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions¹ by or before noon, Monday, December 29, 2008. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

XI. UNUSUAL QUESTIONS OF LAW

Motions in limine on other acts and uncharged acts will probably be filed. There are no unusual questions of law.

XII. TRIAL SETTING

All counsel and Defendant were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on January 5, 2009. The government has asked for the second week of the trial docket. Defense counsel takes no position on this request.

¹Counsel in all cases assigned to be tried before Chief Judge Fernando Gaitan, Jr., as reflected in the trial letter which is prepared by Judge James England, shall meet and prepare a packet of agreed proposed jury instructions to be submitted to Judge Gaitan and e-mailed to marylynn_shawver@mow.uscourts.gov and rhonda_enss@mow.uscourts.gov by Tuesday, December 30, 2008. To the extent there are disagreements to certain instructions, each attorney shall tab and submit his or her preference on those instructions. The instructions shall be listed in the order they are to be given.

/s/ Robert E. Larsen
ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
December 19, 2008

cc: The Honorable Ortrie D. Smith
Ms. Jane Brown
Ms. Lucinda Woolery
Mr. William Bracker
Mr. Bruce Sloan
Mr. Jeff Burkholder